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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/803,636
Filing Date: March 18, 2004
Appellant(s): SUSSMEIER ET AL.

Christopher H. Kirkman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 19 January 2010 appealing from the Office action mailed 21 July 2009.

(1) Real Party in Interest

The examiner has no comment on the appellant's identifying by name the real party in interest contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Appeal 2008-2967

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

1, 4-8, 11 and 12

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,443,447	IFKOVITS et al.	09-2002
5,439,208	MOSER et al.	08-1995
5,896,797	THOMPSON	04-1999
4,073,039	MÜLLER et al.	02-1978

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims: (It is noted that appellant correctly points out in Section VI of the Appeal Brief that claim 9 was cancelled (12-24-08). The examiner just wanted to point out that the use of the number 9 in the rejection heading was a typo and has not been removed from the examiner's answer so as to remain consistent with what was exactly in the final rejection mailed 7-21-09.)

- Claims 1, 4-9, 11, and 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ifkovits et al. (6,443,447) in view of Moser et al. (5,439,208) and Thompson (5,896,797) further in view of Müller et al. (4,073,039).

In regards to claim 1, Ifkovits et al. disclose the invention including a web feeder providing a web (Fig. 1), the web feeder feeds the web a first direction (102), a web

slitting device (14) splitting the web along the first direction into at least two portions (44 and 42), a transverse web cutter cutting the portions of slit web transverse to the first direction while the web is transported through the rotary web cutter to form side-by-side individual sheets (44 and 42), a right angle turn mechanism downstream of the web cutter whereby the individual sheets are rearranged to be one on top of the other in a shingled arrangement (50 and Fig. 3e), the right angle turn mechanism comprising a portion of a right angle turn transport transporting individual sheets at a first velocity (120), and the first velocity capable of being a function of the cutting rate multiplied by the width of the individual sheets (120).

In regards to claim 4, Ifkovits et al. disclose the right angle turn mechanism comprises parallel forty five degree turning bars further comprising a first turning bar forming an inner paper path having a first turning path length (52) and a second turning bar forming an outer paper path having second turning path length (54), and the second turning path length being longer than the first turning path length (Fig. 2).

In regards to claim 5, Ifkovits et al. disclose the first and second turning bars are spaced apart as a function of a sheet length of the sheets such that the shingling arrangement comprises the sheets transported on the inner paper path being positioned at the bottom of the shingling arrangement and sheets transported on the outer paper path being positioned on the top of the shingling arrangement (Fig. 3d).

In regards to claims 6 and 7, Ifkovits et al. disclose the right angle turn transport is capable of controlling to decelerate to a stop and hold sheets upon an occurrence of a downstream stopping condition (Fig. 2) and the web cutter is a rotary cutter (16)

However, with regards to claim 1, Ifkovits et al. fail to disclose a high speed separation transport downstream of the right angle turn transport and pulling individual shingled sheets out from the shingled arrangement and whereby sheets are thereafter transported serially and separated by predetermined gaps and the high speed separation transport has a velocity that is the function of the cutting rate multiplied by a sum of the length of the individual sheets and the gap.

Moser et al. teaches a high speed separation transport downstream of the right angle turn (22) and pulling individual shingled sheets out from the shingled arrangement and whereby sheets are thereafter transported serially and separated by predetermined gaps and the high speed separation transport has a velocity capable of being the function of the cutting rate multiplied by a sum of the length of the individual sheets and the gap (Column 5 lines 39-50). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Ifkovits et al. with a high speed separation transport, as taught by Moser et al., to separate the sheets for further processing and because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

However, with regards to claim 1, Ifkovits et al. fail to disclose one or more sensors for scanning a code on the web, the code indicating a number of sheets for respective collations, the one or more sensors further provided a position indication of

sheets, a controller coupled to the one or more sensors, the controller adjusting the cutting rates.

Thompson teaches it is old and well known in the art of web cutters to incorporate one or more sensors (33, 34) for scanning a code on the web (30), the code indicating a number of sheets for respective collations (30), the one or more sensors further provided a position indication of sheets (column 4 lines 32-45), a controller coupled to the one or more sensors (36), the controller adjusting the cutting rates (column 4 line 49-column 5 line 35). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Ifkovits et al. with scanners, codes, and a controller, as taught by Thompson, to allow a user to keep track of the workpieces and because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

However, Ifkovits et al. in view of Thompson disclose the ability to adjust the cutting rate (Thompson column 4 line 49-column 5 line 35) but fail to disclose the adjusting the cutting rate as a function of the number of work pieces.

Müller et al. teach it is old and well known in the art of continuous cutting to adjust the cutting rate based on the number of output (column 3 lines 62-66). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Ifkovits et al. in view of Thompson with adjusting the cutting rate as a function of the number of work pieces, as taught by Müller et al., to

allow for maximum output in a desired time limit and because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

- Claims 8, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ifkovits et al. (6,443,447) in view of Moser et al. (5,439,208) and Thompson (5,896,797) further in view of Müller et al. (4,073,039). See rejection above.

(10) Response to Argument

The rejection uses the combination of Ifkovits et al. in view of Moser et al. and Thompson further in view of Müller et al. The Ifkovits et al. in view of Moser et al. portion of the rejection was affirmed by the Board of Patent Appeals and Interferences (Appeal 2008-2967). The issues being argued are the portion of the rejection where Thompson further in view of Müller et al. are used to modify Ifkovits et al. in view of Moser et al.

The main issue argued by appellant is the limitation "controller adjusting the cutting rate as a function of the number of sheets...". A portion of the "cutting rate" is how fast the uncut sheet is moved into the cutter plus how fast the cut sheet is moved away from the cutter. The speed of the sheet is controlled by the conveyor on which the uncut/cut sheets are moved upon and this conveyor is capable of adjusting the speeds of the sheets as disclosed in at least Thompson column 4 line 49-column 5 line 35. Meaning the conveyor of Thompson is capable of adjusting speeds that would directly affect the cutting rate. It is noted that is the speed of the conveyor which directly affects

the cutting rate can be adjusted than the cutting rate can be adjust as well. Basically, if the speed can be adjusted, the speed is capable of being adjusted for what ever reason desired by the user. However, as disclosed in the rejection above, Thompson does not specifically disclose that the cutting rate is adjusted as a function of the number of sheets. Müller et al. teach it is old and well known in the art of well known in the art of continuous cutting to adjust the cutting rate based on the number of output (column 3 lines 62-66). Appellant argues against the structure of Müller et al. however, it is noted that the rejection is not using any structure from Müller et al. only the teaching that it is old and well known in the art to change the cutting rate based on the number to be cut off. Column 3 lines 62-66 of Müller et al. teach it is old and well known in the art for cutting rates to be adjustable and for these cutting rates to be adjustable based on the intended output. Therefore, it would have been obvious for one to increase/decrease the speed for a large group or to increase/decrease the speed for a small group based on whatever desired outcome intended by the user.

One skilled in the art would realize that time/efficiency is a common equation to solve in order to put out the most products in the quickest amount of time. It is also known that all work pieces do not have the same parameters. Meaning some work pieces may be thicker/thinner or more brittle requiring more/less time at the cutting station thereby increasing/decreasing the cutting rate. It would have been obvious to one of ordinary skill to adjust the cutting rate on all possible items that could result in less efficient outcomes. Meaning one skilled in the art would most definitely take into account the number of sheets in the finished product when setting up the cutting rate

and increasing/decreasing this rate based on the larger/smaller amount in the number of sheets in the finished product is well within one's technical grasp if all of the known parameters of the items involved would increase the overall efficiency.

(11) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jason Daniel Prone/

Primary Examiner, Art Unit 3724

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/Boyer D. Ashley/

Supervisory Patent Examiner, Art Unit 3724

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